

FEB 17 2005

Attny. Dkt. No. 64688/153

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Dietrich Stephan et al.

GAU=1631

Examiner: Jerry Lin

Serial No. 09/940,454

Filed: 08/29/2001

For: Gene Expression Based Method For Distinguishing Metastatic From Non-Metastatic Forms of a Tumor, and Use in Designing Therapeutic Drugs.

Amendment Under 37 CFR 1.111

Hon. Commissioner for Patents

Box 1450

Arlington, VA 22313-1450

Mail Stop: Non-Fee Amendment

Sir:

Responsive to an Office Action mailed 12/23/2004, applicants submit the following amendments and Remarks.

In the specification:

On p. 1, line 18, correct the spelling to Children's.

In the claims:

18. (Amended) A method for inhibiting or reversing [*in vivo*] metastasis in a M+ class tumor [in a subject], wherein said tumor is capable of existing in M+ or MO classes, comprising the step of [administering to] contacting said [subject] tumor with an effective amount and for an effective period of time an inhibitor of the upregulation (overexpression) of a gene identified [by the method of claim 1] as being associated with said M+ class, said gene identification being made by a genetic method comprising the steps of:

A. Identifying by expression-profiling of tumor sample cohorts of said M+ and MO classes of said tumor, coupled with permutational statistical analysis to generate a candidate gene list, those genes whose expression differ statistically between said classes of said tumor and that are upregulated in the M+ class and downregulated in the MO class;

B. producing a class-predictive algorithm based upon said predictive genes with a permutational P value of <0.05;

and C. applying said algorithm to a candidate tumor to produce a Predictive Strength value that will assign the M+ or MO class to said tumor, wherein said algorithm comprises two primary equations: